



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Moab Field Office
82 East Dogwood
Moab, Utah 84532

51019/0065
cc: Tom



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DIV. OF OIL, GAS & MINING

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AUG 31 2011

DECISION

Energy Fuels	:	Surface Management
Attn: Zach Rogers, PE	:	
44 Union Boulevard, Suite 600	:	
Lakewood, Colorado 80228	:	

PLAN OF OPERATIONS APPROVED – CONDITIONS OF APPROVAL REQUIRED

DETERMINATION OF REQUIRED FINANACIAL GUARANTEE AMOUNT

The Plan of Operations for the Whirlwind Mine Plan is hereby approved. In the September 2008 environmental assessment (EA) completed for the Whirlwind Mine, Item 63 of the conditions of approval (COA) stated the following: *"Energy Fuels shall not build the ventilation shafts in Utah or conduct any surface disturbing activities in Utah until the BLM Moab Field Office has completed Native American notification/consultation."* Native American Consultation for this project was completed in October 2008. Based on our records, the approval for the installation of the ventilation shafts was never sent. A majority of the mining operations will be in Colorado and managed by the Grand Junction Field Office. The Moab Field Office will have oversight of the Energy Fuels must conduct operations as described in the Plan of Operations and in accordance with the conditions of approval listed in the EA as follows:

Conditions of Approval Whirlwind Mine Uranium Mining Project EA

1. Energy Fuels shall implement dust suppression measures including tarping of truck beds on ore haul trucks prior to leaving the mine and application of water and/or magnesium chloride on the mine haulage roads and other areas of the mine.
2. Noise reduction measures shall be implemented as necessary to meet the criteria of the 50 dB boundary outside the Whirlwind and Packrat portal areas.
3. If noise levels or freezing during the winter become concerns, generators shall be placed in insulated enclosures.
4. The primary ore haul route described in the Proposed Action is the primary haul route. An alternate route may only be used after all permits and approvals from appropriate governments are obtained.

5. Ore haul trucks shall travel to and from the site during three time intervals (i.e., early morning, mid-day, and late afternoon) and are limited to 5 days a week, Monday through Friday. The times shall be posted on the road and in the Town of Gateway. Truck traffic shall be limited to weekdays from April 15 through December 15.
6. The ore haulage contractors shall obtain all necessary permits and clearances, following U.S. Department of Transportation, Colorado Department of Transportation, and Utah Department of Transportation regulations including establishment of an Emergency Response Plan.
7. Energy Fuels shall consult with Mesa County, the BLM, and the U.S. Army Corps of Engineers, as appropriate, in the event that additional road upgrades or culvert installations are necessary. Improvements shall be designed according to Mesa County and BLM's standard design practices (i.e., # 17, 18, 19 and 20 of Appendix B in the Grand Junction Resource Area RMP) to minimize impacts to streams.
8. Energy Fuels shall provide a 4-wheel-drive company van for the employees to minimize light-vehicle traffic.
9. Outdoor lighting shall be of the full cut-off type, in accordance with Mesa County requirements.
10. Buildings, other structures, and permanent equipment such as vent shaft fans and generator sound mitigation covers shall be painted a BLM-approved color, as per BLM Visual Resource Management BMPs (BLM, 2005a), using color(s) from either the chart of Standard Environmental Colors or the chart of Supplemental Environmental Colors.
11. Mitigation of potential impacts to cultural resources shall be accomplished through mandated avoidance of historic properties by mine personnel.
12. The proposed vent shafts have been located away from the existing cultural sites. The five sites found to be eligible for nomination to the NRHP (42GR2095, 42GR2777, 42GR2778, 42GR3188, and 5ME15765) shall be protected from indirect impacts by limiting vehicular access to the site vicinity.
13. Energy Fuels shall inform all persons who are associated with the project operations that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts.
14. Energy Fuels and all of their subcontractors shall strictly adhere to the confidentiality of information concerning the nature and location of archeological resources.
15. If a dinosaur fossil is encountered during mining operations, Energy Fuels shall immediately cease work in that area of the mine and notify the BLM Authorized Office (AO) of the discovery.
16. All chemicals and hydrocarbon products (including used oil) shall be contained and controlled in accordance with the Materials Containment Plan and SPCC Plan, respectively.
17. Energy Fuels shall conduct a Hydrogeologic Study to further characterize the upgradient and downgradient aquifers, the groundwater flowing into the mine, connections between

the mine and area springs, the water flowing out of the mine, the eventual fate of the water flowing from the mine, and any groundwater impacts from mining operations. The report will provide additional groundwater information that could be used for closure planning by Energy Fuels, the BLM, and the DRMS. This study shall be completed and submitted to the BLM within 2 years of signing this Decision.

18. The BLM Hazardous Material Coordinator shall be notified soon as possible if a spill occurs during ore transport.
19. The ore stockpile shall consist of a geosynthetic liner as described in Chapter 2 Section 2.2.2.3 of the EA.
20. Energy Fuels shall install a groundwater monitoring well, built to comply with EPA and USGS standards down-gradient from the ore stockpile pad and the Whirlwind Portal.
21. During vegetation clearing and topsoil salvaging, all clearing work shall be completed when soils are not saturated and shall occur without the mixing of soil and vegetation.
22. The waste rock storage area shall be incrementally expanded minimizing site disturbance in the short-term and minimizing exposure of soils to potential wind and water erosion.
23. Salvaged topsoil shall be contemporaneously used for final reclamation minimizing topsoil storage and the potential for soil degradation from long-term stockpile storage.
24. Energy Fuels shall conduct incremental and interim reclamation of various parts of the project site as described in Chapter 2 Section 2.2.2.3 in the EA.
25. The BLM's Standard Design Practices item #16 (Grand Junction Resource Area RMP) shall be applied during restoration efforts, this standard requires that a seedbed be prepared by contour cultivating 4 to 6 inches deep where possible and drilling seed ¼- to ½-inch deep. In areas that cannot be drill seeded, broadcast seeding will be used with one and one-half times the recommended drilling rate and would be covered ¼- to ½-inch deep using a harrow, drag bar, or chain. Seeding will be completed after August 15 and prior to October 1.
26. As specified in the BLM's Standard Design Practices items #32 (Grand Junction Resource Area RMP) where woodland or forest vegetation is present prior to disturbance, tree species shall be reestablished by including piñon and juniper in the seed mixture. Where ponderosa pine is disturbed, seedlings shall be planted if directed by the BLM AO.
27. All topsoil shall be salvaged from disturbed areas and stockpiled prior to surface disturbing activities.
28. Woody vegetation shall be salvaged prior to topsoil stripping and shall be mulched and placed on top of the reclaimed surfaces along with whole pieces of woody material.
29. The soil stockpiles shall be seeded with the seed mix specified in Chapter 2 Section 2.2.2.10 in the EA.

30. The Proposed Action shall avoid disturbing existing reclaimed areas around the Packrat Portal area that are rugged and steeply sloping (i.e., > 40 percent).
31. The waste rock storage area shall be contemporaneously reclaimed during the mining process.
32. The waste rock pile and reclaimed area shall be fenced to exclude livestock for a minimum of 3 years after reclamation.
33. Energy Fuels' Weed Control Plan shall be implemented throughout the life of the mining operation and during reclamation.
34. If necessary, Energy Fuels shall consult with the BLM and county weed control staff regarding problematic weed infestation areas and appropriate control measures would be agreed upon prior to initiation.
35. All weed infested areas shall be marked and avoided.
36. All tracked equipment and mine-related vehicles that come in contact with identified areas of noxious and invasive weeds shall be washed/rinsed.
37. All noxious weeds shall be sprayed. The herbicides to be used shall be approved by BLM and county weed control staff.
38. State, county, and BLM listed species scheduled for eradication that are found in the project area shall be eradicated and reported to the county weed inspector.
39. The swinging metal gates on the roads to the Whirlwind and Packrat portals shall be locked during weekends, holidays, and other down times.
40. Energy Fuels shall engage in ongoing communication with the BLM rangeland managers and/or the two grazing leaseholders during the summer season.
41. To be covered by the BLM Programmatic Consultation for the endangered Colorado River fish species, Energy Fuels shall make a one-time payment in the amount of \$434.08 to the National Fish and Wildlife Foundation, the USFWS' designated agent.
42. Energy Fuels shall install bat gates at the main Packrat Portal and the Whirlwind Portal during reclamation.
43. Reopening of portals shall occur sometime during the months of April to September in order to avoid direct impacts to bat species.
44. Construction shall be avoided between pre-nesting and chick fledgling. If construction occurs between these times, additional nesting surveys shall be performed and a 300-foot radius buffer would be placed around active nests.
45. One pre-treatment pond and two on-site water post-treatment settling tanks shall be available for birds to use as a safe water source. The tanks shall be equipped with escape structures based on proven methods (Taylor and Tuttle, 2007) and must be maintained so that they are functioning at all times.

46. The sediment pond shall be constructed in such a way as to provide easy exit by wildlife. The sediment pond shall not be netted or fenced.
47. Haul drivers, miners, and other contractors shall be briefed in regularly scheduled safety meetings on the potential impacts to big game winter range and bear fall concentration.
48. Mine site trash shall be contained in exterior bear-proof trash containers.
49. In accordance with 29 CFR 1910.1200(g), Energy Fuels shall maintain a file containing Material Safety Data Sheets (MSDS) for all chemicals, compounds, and/or substances which are utilized during the course of construction, mining, and reclamation operations of this project. This file shall be available for reference and inspection at all times at the site.
50. A roll-off bear-proof container for disposal of trash shall be located on-site. A second roll-off may be placed on the Whirlwind pad if needed. No landfills shall be constructed on-site. Recycling of applicable materials (batteries, scrap metal) shall take place during mine operations.
51. Ore haul trucks shall be checked for radiation levels prior to leaving the mine site and the mill site on the return leg. If gamma readings are found to be elevated, the ore truck shall be cleaned using a power wash or other method to meet appropriate radiation standards.
52. Diesel fuel and various oils for use in mobile and on-site equipment shall be stored and used on-site. Secondary containment shall be provided for all petroleum products. As described in detail in Section 2.2.2.9, a SPCC Plan consistent with federal regulation 40 CFR 112 shall be prepared and implemented for storing and using petroleum products on the site.
53. Spills shall be immediately reported to the BLM authorized officer, characterized, and remediated. Spill reporting and containment shall occur immediately and material shall be moved to the nearest approved landfill or disposal facility as necessary.
54. Portable sanitation facilities shall be provided during exploration and the initial phases of mining. The waste shall be taken off-site for treatment at an approved facility. A leach field shall be constructed to dispose of wastewater when the surface facilities are constructed.
55. Sludge collected from the treated water settling tank shall be analyzed to determine the disposal method. Then it shall be 1) mixed into a cement grout on-site and disposed of in the mine in a designated area, or 2) taken to the uranium mill with ore to be processed, or 3) taken to a landfill.
56. Solid waste shall be containerized and hauled to a landfill in accordance with state and local regulations.
57. Used oil and antifreeze from the maintenance shop shall be containerized and hauled to a recycling facility. Scrap metal, batteries, and tires shall also be recycled.
58. If a solvent station is installed to clean parts, it shall consist of a sink mounted on a small drum of solvent. The solvent shall be recycled to the drum after each use.

59. The mine shall operate in accordance with federal regulations that are designed to protect the mine workers and the general public from radiation exposure.
60. The miners shall be protected through establishment of adequate ventilation and monitoring of radiation levels in the underground work areas in accordance with MSHA regulations.
61. The Whirlwind Mine shall maintain a minimum of 20,000 cubic feet per minute of air flow at the working area. A radon-daughter monitoring program shall be established in accordance with 57 CFR §5037 in which exposure levels would be monitored and recorded. If radiation levels in a working area are found to be in excess of MSHA standards, the ventilation shall be corrected immediately and more frequent monitoring shall be implemented to verify compliance.
62. All scrap metal and other recyclables shall be checked with a gamma meter prior to leaving the mine site. If gamma readings are found to be elevated, the material shall be cleaned using a power wash or other methods to meet appropriate radiation standards.
63. Energy Fuels shall not build the ventilation shafts in Utah or conduct any surface disturbing activities in Utah until the BLM Moab Field Office has completed Native

Financial Guarantee

Based on your reclamation cost estimate, the BLM review of the cost estimate, and consideration of the above conditions of approval, the required financial guarantee amount is hereby set at \$43,800 for reclamation of the Whirlwind Mine's six ventilation shafts. You must provide a financial guarantee in this amount using one or more of the acceptable financial guarantee instruments listed under 43 CFR 3809.555. The financial guarantee must be provided to the Utah Division of Oil, Gas and Mining, P.O. Box 145801, Salt Lake City, Utah 84114-5801. You must not begin activities under the approved Plan of Operations until you receive notification from the Division of Oil, Gas and Mining's BLM State Office that the financial guarantee has been accepted and obligated.

Approval of a Plan of Operations by the BLM does not constitute a determination regarding the validity or ownership of any unpatented mining claim involved in the mining operation. Energy Fuels is responsible for obtaining any use rights or local, state, or federal permits, licenses, or reviews that may be required for the operation.

This decision also constitutes concurrence with Energy Fuels' use and occupancy of public lands as described in the approved Plan of Operation. Energy Fuels must maintain compliance with the Use and Occupancy regulations at 43 CFR 3715.2, 3715.2-1, and 3715.5 throughout the duration of the approved Plan of Operations. Concurrence by the BLM on Energy Fuels' proposed use and occupancy is not subject to State Director Review, but may be appealed by adversely affected parties directly to the Interior Board of Land Appeals as outlined in enclosed BLM Form 1842-1.

Appeal of the Decision

If you do not agree and are adversely affected by this decision, you may request that the Utah BLM State Director review this decision. If you request a State Director Review, the request

must be received in the Utah BLM State Office at 440 West 200 South, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a Stay is granted by the State Director. If you request a Stay, you have the burden of proof to demonstrate that a Stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM received the request for State Director Review. You have 30 days from the end of the 21day period in which to file your Notice of Appeal with this office at Moab Field Office at 82 East Dogwood, Moab, Utah 84532, which we will forward to IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a)(1). Your Notice of Appeal must be filed in this office at Monticello Field Office at 82 East Dogwood, Moab, Utah, 84532, within 30 days from receipt of this decision. As the appellant you have the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your Notice Appeal. Copies of the Notice of Appeal and petition for stay must also be submitted to each party named in the decision and to the Office of the Solicitor at Federal Building Rm-6201, 125 South State Street, Salt Lake City, Utah 84138, at the same time the original documents are filed in this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted based on the standards listed below.

Request for a Stay

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by Interior Board of Land Appeals (IBLA), the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the IBLA and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal must show sufficient justification based on the following standards:

1. The relative harm to parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

If you have any questions, please contact Rebecca Doolittle at the Bureau of Land Management, 82 East Dogwood, Moab, Utah, 84532; 435-259-2141

/s/ Jeffrey R. Smith

Field Manager

1 Enclosure

1 - Form 1842-1, Information on Taking Appeals to the Interior Board of Land Appeals.

cc: Tom Munson, UDOGM
Opie Abeyta, UT923